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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,352	09/23/2003	Takateru Okubo	03500.017582	3391
5514	7590	08/02/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			GRAINGER, QUANA MASHELL	
			ART UNIT	PAPER NUMBER
			2852	

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,352

Applicant(s)

OKUBO, TAKATERU

Examiner

Quana Grainger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8 and 10-13 is/are rejected.
- 7) ☒ Claim(s) 4 and 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statements filed 11-4-2003 and 9-23-2003 has been considered.

Drawings

3. The formal drawings are approved by the examiner.

Title

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application

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designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 1-2, 5-8, 10, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Kirino (6,726,196).

Kirino teaches an image forming apparatus comprising: image forming means which forms an image on a recording material; fixing means which fixes the image formed on the recording material; and recording material conveying means which is provided at a downstream side of said fixing means in a moving direction of the recording material, the conveying means including a first roller having a first shaft and a second roller having a second shaft and maintained in contact with said first roller; wherein said second roller includes a first portion provided in a vicinity of a passing reference of the recording material and maintained in contact with said first roller, and a second portion positioned farther from the reference than the first portion and having a diameter smaller than that of the first portion (Figure 3). The second portion has a gap to said first roller (Figure 3). When the image forming means forms the image only on one side of the recording material, said first roller is in contact with the image (Figure 3). The first roller 23, 28 has a continuous shape without a division along the first shaft, while said second roller has a shape divided into plural portions along said second shaft. The second portion is provided within a passing area of the recording material. The conveying means is

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provided immediately behind said fixing means, in the moving direction of the recording material (Figure 1).

Kirino teaches an image fixing apparatus comprising: fixing means which fixes an image formed on a recording material; and recording material conveying means which is provided at a downstream side of said fixing means in a moving direction of the recording material, the conveying means including a first roller having a first shaft and a second roller having a second shaft and maintained in contact with said first roller; wherein said second roller includes a first portion provided in a vicinity of a passing reference of the recording material and maintained in contact with said first roller, and a second portion positioned farther from the reference than the first portion and having a diameter smaller than that of the first portion (Figure 3).

7. Claims 1, 5, 8, and 10-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Sano et al. (6,330,419).

Sano et al. teaches an image forming apparatus comprising: image forming means which forms an image on a recording material; fixing means which fixes the image formed on the recording material; and recording material conveying means which is provided at a downstream side of said fixing means in a moving direction of the recording material, the conveying means including a first roller having a first shaft and a second roller having a second shaft and maintained in contact with said first roller; wherein said second roller includes a first portion provided in a vicinity of a passing reference of the recording material and maintained in contact with said first roller, and a second portion positioned farther from the reference than the first

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portion and having a diameter smaller than that of the first portion (Figure 4, 7A, 7B). In case said image forming means forms the image only on one side of the recording material, said first roller is in contact with the image (Figure 2). The second portion is provided within a passing area of the recording material (Figure 2). The conveying means is provided immediately behind said fixing means, in the moving direction of the recording material (Figure 2). The second shaft is provided, at an end portion thereof, with a gear 42 for receiving a driving power from a drive source provided in said apparatus, and said first roller rotates following a rotation of said second roller. The apparatus is also capable of forming an image on a rear side of the recording material by reversing the recording material (Figure 1).

Sano et al. also teaches an image fixing apparatus comprising: fixing means which fixes an image formed on a recording material; and recording material conveying means which is provided at a downstream side of said fixing means in a moving direction of the recording material, the conveying means including a first roller having a first shaft and a second roller having a second shaft and maintained in contact with said first roller; wherein said second roller includes a first portion provided in a vicinity of a passing reference of the recording material and maintained in contact with said first roller, and a second portion positioned farther from the reference than the first portion and having a diameter smaller than that of the first portion (Figures 1-4, 7A, 7B).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kirino.

Kirino does not teach the difference in the diameters of the first and second portions. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the appropriate diameters for the first and second portions of the second roller, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

In re Aller, 105 USPQ 233.

Allowable Subject Matter

10. Claims 4 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Contact Information

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quana Grainger whose telephone number is 571-272-2135. The examiner can normally be reached on weekdays between the hours of 7-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley can be reached on 571-272-2136. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Quana Grainger
Primary Examiner
Art Unit 2852

QG